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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-890*

13 **STEWART POWERS**
2101 Wenonah Ave
Wichita Falls, Texas 76309

ACCUSATION

14 **Registered Nurse License No. 400469**

15 Respondent.

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18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about August 31, 1986, the Board issued Registered Nurse License Number
24 400469 to Stewart Powers ("Respondent"). The Registered Nurse License expired on July 31,
25 2004, and has not been renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
4 license, for any reason provided in Article 3 (commencing with Code section 2750) of the
5 Nursing Practice Act.

6 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued, or reinstated.

9 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
10 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
11 to render a decision imposing discipline on the license.

12 **STATUTORY PROVISIONS**

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

17 (4) Denial of licensure, revocation, suspension, restriction, or any other
18 disciplinary action against a health care professional license or certificate by another
19 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

20 **COST RECOVERY**

21 7. Code section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

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1 **CAUSE FOR DISCIPLINE**

2 (Out-of-State Discipline)

3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),
4 on the grounds of unprofessional conduct, in that effective October 5, 2010, the Texas Board of
5 Nursing, in a disciplinary action entitled, *In the Matter of Registered Nurse License Number*
6 *453933 Issued to Stewart Powers*, accepted the voluntary surrender of Respondent's license to
7 practice professional nursing in the State of Texas pursuant to an *Agreed Order* (attached hereto
8 as **Exhibit A** and incorporated herein by reference). The basis of such action is that between in or
9 around 2004 and 2007, Respondent deceived and defrauded Medicaid and Medicare of monies
10 while employed as an Administrator with Senior Health, Inc. Specifically, Respondent pled guilty
11 on April 6, 2010, in the United States District Court for the Eastern District of Texas Sherman
12 Division, in Cause Number 4:09-CR-239 to:

13 a. **Conspiracy to Embezzle Health Care Funds** - Respondent amended and approved
14 false work-time records submitted by Brandon Allen Ray and pressured hospital personnel to
15 process time cards and write payroll checks, which were submitted to the Medicare/Medicaid
16 programs resulting in a loss of \$54,000; and

17 b. **Theft or Embezzlement in Connection to Health Care** - Respondent willfully
18 executed and attempted to execute a scheme and artifice to defraud a health care benefit program
19 in an amount greater than \$30,000 but less than \$70,000.

20 **PRAYER**

21 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 400469, issued to
24 Stewart Powers.;

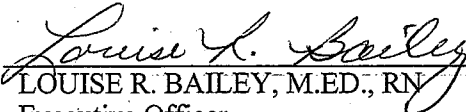
25 2. Ordering Stewart Powers to pay the Board of Registered Nursing the reasonable costs
26 of the investigation and enforcement of this case, pursuant to Business and Professions Code
27 section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 8, 2013



LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
State of California
Complainant

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EXHIBIT A

Agreed Order, Eff. October 5, 2010

In the Matter of Registered Nurse License Number 453933 Issued to Stewart Powers
State of Texas Board of Nursing

BEFORE THE TEXAS BOARD OF NURSING

In the Matter of Registered Nurse	§	AGREED
License Number 453933	§	
issued to STEWART POWERS	§	ORDER

On this day, the Texas Board of Nursing, hereinafter referred to as the Board, accepted the voluntary surrender of Registered Nurse License Number 453933, issued to STEWART POWERS, hereinafter referred to as Respondent. This action was taken in accordance with Section 301.453(c) of the Texas Occupations Code.

Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

The Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was provided to Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.
2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.
3. Respondent is currently licensed to practice professional nursing in the State of Texas.
4. Respondent received a Baccalaureate Degree in Nursing from Colchester District Group School of Nursing, Colchester Essex, England on October 1, 1977. Respondent was licensed to practice professional nursing in the State of Texas on August 4, 1980.
5. Respondent's employment history includes:

1980 - 1985	Unknown
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Respondent's employment history continued includes:

1985 - 1993	Director of Nursing	National Medical Interprises Los Angeles, CA
1993 - 1995	Regional Vice President	Medbridge Healthcare King of Prussia, PA
1995 - 1997	Start-up Administrator	Vencor Hospital Pittsburgh, PA
1997 - 2004	PRN	Texas Surgery Center Wichita Falls, TX
2004 - 2007	Administrator and Implementation Director	Senior Health, Inc. Sherman, Texas
2007-2010	Director of Nursing	Dallas Endoscopy Center Dallas, Texas
3/2010 - Present	Marketer/Assessor	Mayhill Hospital Denton, Texas

6. At the time of the initial incident, Respondent was employed as an Administrator with Senior Health, Inc. and had been in this position for two years and unknown months.

7. On April 6, 2010, Respondent pled guilty in the United States District Court for the Eastern District of Texas Sherman Division, in Cause Number 4:09-CR-239 to the following:

- COUNT TWO - CONSPIRACY TO EMBEZZLE HEALTH CARE FUNDS, in that Respondent amended and approved false work-time records submitted by Brandon Allen Ray and pressured hospital personnel to process time cards and write payroll checks, which were submitted to the Medicare/Medicaid programs resulting in a loss of \$54,000; and
- COUNT THREE - THEFT OR EMBEZZLEMENT IN CONNECTION TO HEALTH CARE, in that Respondent willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program in an amount greater than \$30,000 but less than \$70,000.

8. Respondent's conduct was deceiving and defrauded Medicaid and Medicare of monies.

9. Charges were filed on July 30, 2010.

10. Charges were mailed to Respondent on August 2, 2010.
11. Respondent, by his signature to this Order, expresses his desire to voluntarily surrender his license to practice professional nursing in the State of Texas.
12. The Board finds that there exists serious risks to public health and safety as a result of impaired nursing care due to intemperate use of controlled substances or chemical dependency.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.
2. Notice was served in accordance with law.
3. The evidence received is sufficient to prove violations of Section 301.452(b)(10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(1)(A), (1)(B), (6)(A), (6)(G), (6)(H) & (11)(B).
4. The evidence received is sufficient cause pursuant to Section 301.453(a), Texas Occupations Code, to take disciplinary action against License Number 453933, heretofore issued to STEWART POWERS, including revocation of Respondent's licenses to practice professional nursing in the State of Texas.
5. Under Section 301.453(c), Texas Occupations Code, the Board has the authority to accept the voluntary surrender of a license.
6. Under Section 301.453(d), Texas Occupations Code, as amended, the Board may impose conditions for reinstatement of licensure.
7. Any subsequent reinstatement of this license will be controlled by Section 301.453(d), Texas Occupations Code, and 22 TEX. ADMIN. CODE §213.26-.29, and any amendments thereof in effect at the time of the reinstatement.

ORDER

NOW, THEREFORE, IT IS AGREED and ORDERED that the VOLUNTARY SURRENDER of License Number 563933, heretofore issued to STEWART POWERS, to practice professional nursing in the State of Texas, is accepted by the Texas Board of Nursing. In connection

with this acceptance, the Board imposes the following conditions:

1. RESPONDENT SHALL NOT practice professional nursing, use the title "registered nurse" or the abbreviation "RN" or wear any insignia identifying as a registered nurse or use any designation which, directly or indirectly, would lead any person to believe that RESPONDENT is a registered nurse during the period in which the license is surrendered.
2. RESPONDENT SHALL NOT petition for reinstatement of licensure until: one (1) year has elapsed from the date of this Order; and, RESPONDENT has obtained objective, verifiable proof of twelve (12) consecutive months of sobriety immediately preceding the petition.
3. Upon petitioning for reinstatement, RESPONDENT SHALL satisfy all then existing requirements for relicensure.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's nurse licensure compact privileges, if any, to practice nursing in the State of Texas.

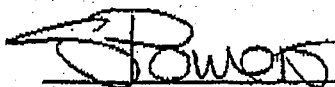
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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order becomes final when accepted by the Executive Director at which time the terms of this Order become effective and a copy will be mailed to me.

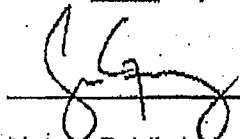
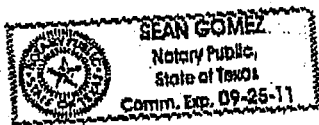
Signed this 30th day of September, 2010.



STEWART POWERS, Respondent

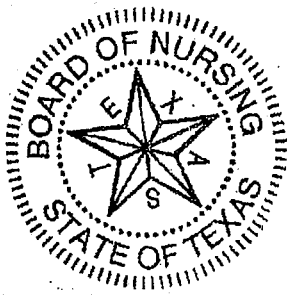
Sworn to and subscribed before me this 30 day of September, 2010.

SEAL



Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Executive Director on behalf of the
Texas Board of Nursing does hereby accept the voluntary surrender of Registered Nurse License
Number 453933, previously issued to STEWART POWERS.



Effective this 5th day of October, 2010.

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board